



Matthew Schwartz

Nominee to the U.S. Court of Appeals for the Sixth Circuit

COURT

Circuit Court

DATE NOMINATED

April 9, 2026

AFJ OPPOSES

INTRODUCTION

Matthew Schwartz, President Trump's nominee to the Second Circuit and former Justice Alito clerk, exemplifies yet another loyalist with a demonstrated history of shielding Trump from accountability for his misconduct. Trump has nominated many of his personal lawyers for federal judiciary and top Department of Justice roles including [Emil Bove](#), [Todd Blanche](#), and [Justin Smith](#). Similarly, Schwartz "played a central role" handling Trump's appeal of his 2024 [New York state conviction](#). Schwartz also continues to represent Trump, sons Eric Trump and Donald Trump Jr., and a handful of Trump-affiliated organizations for a civil case [involving their persistent financial fraud](#).

But Trump isn't the only billionaire Schwartz serves. He also [represented Elon Musk and Tesla](#), and helped get Musk's [\\$50 billion compensation package](#) reinstated after a Delaware judge had initially voided it, due to concerns with Tesla board conflicts of interest and lack of shareholder disclosures. When not helping billionaires, Schwartz has defended Wall Street banks and financial institutions, trying to undo judgments ordered against them [for violations of federal, state, and local anti-discrimination laws](#). He [defended Volkswagen](#), and weaponized federal preemption to argue for the car manufacturer's immunity when it [secretly and deliberately](#) installed software designed to cheat emissions tests. Schwartz also co-authored an [amicus brief](#) in *Grants Pass v. Johnson*, siding with efforts to criminalize homelessness before the Supreme Court.

With such demonstrated biases against working families and consumers, Schwartz's confirmation to a lifetime role on the Second Circuit could greatly erode consumer protections, advance predatory and racist lending practices, hurt working families, cut off access to reproductive care, and erode civil rights.

SHIELDED TRUMP FROM ACCOUNTABILITY FOR MISCONDUCT

In his Senate Judiciary Questionnaire, Schwartz notes that he "played a central role" in *People of the State of New York v. President Donald J. Trump*, litigation involving Trump's [falsification of business records](#). Schwartz also represented Trump, his family members, and various entities throughout the Trump Organization for inflating assets

SHIELDED TRUMP FROM ACCOUNTABILITY FOR MISCONDUCT (*continued*)

on their financial statements. A New York court found them **liable for financial fraud**, a case which Schwartz continues to fight. His continued representation in these cases further deflects accountability and responsibility from Trump for his misconduct.

DEFENDED ELON MUSK'S \$50 BILLION COMPENSATION PACKAGE

Schwartz **defended** Tesla and Musk's unprecedented \$50 billion compensation package, which Delaware Court of Chancery Chancellor Kathaleen McCormick found deeply flawed. In her decisions, McCormick cited Musk's outsized role as controlling Tesla shareholder as a potential conflict of interest. His superstar status risked making even an independent director "likely to be unduly deferential" and created a distortion field that could interfere with board oversight.

On appeal, Schwartz's efforts successfully shielded Musk's massive compensation package from meaningful accountability, as the Delaware Supreme Court **reversed the decision** voiding his compensation package. Shielding executive pay structures from meaningful accountability undermines shareholder value and, in turn, weakens the financial security of workers whose retirements depend on those investments.

SIDES WITH WALL STREET BANKS OVER EVERYDAY PEOPLE

Schwartz has spent much of his career shielding powerful Wall Street banks and financial institutions from liability to the detriment of marginalized communities and working families. Schwartz represented the New York Bankers Association, weaponizing preemption to **successfully invalidate** New York City's "Responsible Banking Act." This law would have leveraged the city's financial relationship with major banks in pushing them towards fair lending, investment in underserved communities, and more transparent banking practices.

Additionally, when eight Black homeowners successfully held Emigrant Bank accountable for multiple violations of federal, state, and local anti-discrimination laws, **Schwartz (unsuccessfully) sought to overturn the \$722, 044 judgment** entered against the bank for compensatory and homeowner damages. In *Saint-Jean v. Emigrant Mortg. Co.* (2d Cir. 2025), Emigrant Bank was found **liable** for making "mortgage refinancing loans with high default interest rates to Black and Latino individuals in poor neighborhoods who had no income, no assets, and low credit scores but high equity in their homes, and then foreclos[ing] on the loans when the individuals defaulted."

After losing at the Second Circuit, Schwartz, on behalf of Emigrant, filed a **petition** for certiorari asking the Supreme Court to overturn the decision. Notably, Schwartz asked the Court to end the use of the disparate impact doctrine in

SIDES WITH WALL STREET BANKS OVER EVERYDAY PEOPLE (*continued*)

housing discrimination cases. To support his petition, Schwartz cited President Trump's April 2025 [executive order](#) establishing the administration's goal of "eliminat[ing] the use of disparate-impact liability in all contexts to the maximum degree possible." Thankfully, the Court denied Emigrant's petition, rejecting Schwartz's extreme arguments. Not only did Schwartz defend Emigrant Bank's discriminatory policies that made it more likely people would lose their homes, but he also advocated for the government's right to then punish people experiencing homelessness. In [Grants Pass v. Johnson](#) (2024), Schwartz wrote an amicus brief [defending a local ordinance](#) that punished individuals for sleeping in public spaces, even when they lacked access to shelters or housing. Schwartz argued that the ordinance did not violate the Cruel and Unusual Punishments Clause of the Eighth Amendment because [vagrancy laws](#) are "not unjustly harsh in light of longstanding prior practice."

Schwartz's argument rested on an extreme, originalist construction of the Eighth Amendment, which reasons that any law or practice with a history of common use cannot be considered unconstitutionally cruel and unusual. This is a dangerous interpretation, as it potentially allows any form of punishment with a historical precedent to be constitutionally valid under the Cruel and Unusual Punishments Clause. In other words, this interpretation of the Eighth Amendment keeps the Constitution frozen in our more barbaric past and prevents us from challenging laws and punishments we now broadly consider inhumane.

Further, Schwartz argued that the involuntariness of a targeted individual's conduct should not factor into Eighth Amendment analysis. Schwartz contended that instead of focusing on the government's "fail[ure] to provide a good or service that would reduce the violation's perceived necessity," courts should instead center the individual's "personal accountability." As evidenced by his zealous advocacy for predatory banks and corporations, Schwartz's belief in "personal responsibility" only extends to marginalized individuals and not multi-billion-dollar entities.

Ultimately, the Supreme Court upheld the city ordinance in Grants Pass, citing Schwartz's amicus brief several times to justify its reasoning. Despite clear evidence that the number of homeless individuals in Grants Pass outnumbered its "practically available" shelter beds, the Court held that the public camping ordinance was generally applicable and thus did not criminalize a homeless individual's "status." The Court's decision — along with Schwartz's efforts to bring it about — served as a ringing endorsement of the increased criminalization of homelessness.

EXTREME HOSTILITY TO DEI POLICIES

Aligned with his work defending racist lending practices, Schwartz has also personally [attacked DEI and its role in universities](#). Ahead of the [2003 Supreme Court case on race conscious admissions policies](#), Schwartz co-authored a [Wall Street Journal op-ed](#) attacking DEI. In the op-ed, Schwartz argued that conservatives, not members of historically marginalized communities, are the true victims of discrimination on law school campuses. He suggested that instead of DEI "preferences . . . needed to make up for egregious past discrimination," more action should be taken to address the alleged "gross viewpoint disparities on faculties." Schwartz opined that law schools fail to

EXTREME HOSTILITY TO DEI POLICIES (*continued*)

provide “an alternative to the reigning liberal orthodoxy.” He further argued that “by pursuing the diversity rationale, universities have sacrificed their higher calling to truth.” Schwartz dismissed the historical and material rationales for DEI policies in higher education, instead stating that these schools’ true goal was “racial patterning, not educational diversity.”

EXTREME VIEWS ON SAME-SEX MARRIAGE AND REPRODUCTIVE CARE

While at Princeton University, Schwartz was a frequent contributor to the *Princeton Tory*, a student-run conservative publication. In 1997, Schwartz wrote an article “Married in the Eyes of God?” lambasting Princeton’s decision to allow two former alums, Michael Beer and Jason Rudy, to be married in the Princeton Chapel. Throughout the article, Schwartz vehemently attacked the LGBTQ+ community’s push to legalize gay marriage and the “crusade” for “its misconceived notion of equal rights.” Schwartz argued that the LGBTQ+’s fight for equal rights had “intrud[ed] into churches and synagogues throughout the country” and greatly harmed “the basic dignity of the religious community.” Shockingly, Schwartz contended that Beer’s and Rudy’s wedding in the Princeton Chapel served as an example of “the worst attribute of the gay movement: a complete disregard for the beliefs of others in the quest for the satisfaction of the gay movement’s goals.” Schwartz went on to write that “the emotional harm caused” by the mere occurrence of a gay marriage on campus “to God-fearing Princetonians is inexcusable.”

Schwartz went beyond attacking Princeton’s allowance of a gay marriage on campus, openly attacked the LGBTQ+ community as a whole. He argued that any Judeo-Christian sects that had “accept[ed] homosexuality” had “unfortunately sacrificed Biblical teachings to political pressure. Further, Schwartz criticized the LGBTQ+ movement’s effort to “force” acceptance of gay marriage through “numerous public displays.” He also passionately argued that same-sex couples do not benefit society and therefore do not deserve the benefits that come from a state-recognized marriage.

Schwartz stated that “it seems difficult to find the value that a homosexual union gives to a heterosexual family.” He rejected the argument that same-sex couples provide the same benefit to society that heterosexual couples without children do, asserting that these heterosexual unions still serve as a “constant reinforcement of marriages between a man and a woman,” which in turn “serves as a positive role-model for children to from heterosexual marriages, which often lead to more children.” Disturbingly, Schwartz even questioned whether gay couples should be allowed to adopt children. He expressed severe skepticism about the ability of same-sex couples “to raise children that are as emotionally, psychologically, and spiritually healthy as children of heterosexual parents.”

Schwartz has also expressed extreme bias against access to reproductive care in his personal writings. In a November 1998 *Princeton Tory* piece titled “Professing Infanticide,” Schwartz criticized the medical profession’s role in reproductive care, warning that “[s]ome doctors will, undoubtedly, have no qualms with killing even healthy babies.”

EXTREME VIEWS ON SAME-SEX MARRIAGE AND REPRODUCTIVE CARE *(continued)*

Schwartz also likened bioethicist Peter Singer's promotion of increased funding for individuals with disabilities "akin to saying that black babies should be killed but that affirmative action should be strengthened." Such views of reproductive care and characterizations of affirmative action reveal a lack of impartiality necessary to demonstrate the independence required for a lifetime appointment to the federal bench.

UNFIT AND UNQUALIFIED

One of the federal judiciary's most important qualities (among many) is their independence. Judges presiding over courtrooms and communities for lifetime appointments must be loyal to our laws and our Constitution and committed to equal justice for all. Unfortunately, Matthew Schwartz's legal career and writings exemplify the opposite of fairness. Schwartz has overwhelmingly sided with Wall Street banks and powerful financial institutions – to the great detriment of some of the most marginalized communities – asking the court eradicate accountability for racist lending practices. Schwartz's personal writings confirm extreme bias and hostility towards LGBTQ+ individuals and those seeking access to reproductive care. If confirmed, these same biases and hostilities will be further amplified, with harms extending to the people of Connecticut, New York, and Vermont. For these reasons, Matthew Schwartz must not be confirmed to the Second Circuit.